IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.21635 of 2004

Between:

Sri Venkateswara Rice Mill, Samisrigudem Nidadavole
E.G. District rep by its Proprietor Mr.P. Adinarayana S/o.Late P.Satyanarayana 42 years.

..... PETITIONER

AND

1 Employees Provident Fund Organisation, Sub Regional Office

Opp.Kambal Tank Rajahmundry,
East Godavari District rep. by its Regional Provident Fund

Commissioner-II.
2 The Recovery Officer, Employees Provident Fund Organisation
Sub Regional Office Opp.Kambal Tank Rajahmundry E.G.District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of Writ of Mandamus or any other appropriate writ declaring the proceedings No.AP/3968/7A/ENF/ECR/03/1997 dt.7.1.2004 of the Regional Provident Fund Commissioner-II Rajahmundry ordering for payment of Rs.2,08,998/- towards provident Fund Contributions from the period from July 1997 to May 2003 is illegal and arbitrary (ii) to declare that the proceedings of the 2nd respondent No.AP/Recy/3968/Rjy/2004/1536 dt.28.9.2004 ordering for attachment of immoveable properties is illegal and arbitrary and (iii) consequently set aside the above proceedings AP/3968/7A/SRO/RJY/ENF/ECR/03/199/1997 dt.7.1.2004 and proceedings No.AP/Recy /3968/Rjy/2004/1536 dt.28.9.2004.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.B.NARASIMHA SARMA

The Court at the stage of admission made the following:

ORDER:

The present writ petition is filed questioning the Proceedings No.AP/3968/7A/SRO/RJY/ENF/ECR/03/1997, dated 07.01.2004 of the first respondent ordering for payment of Rs.2,08,998/- towards Provident Fund Contributions for the period from July 1997 to May 2003 by the petitioner-Rice Mill.

As per the averments made in the affidavit filed in support of the writ petition, the petitioner-Rice Mill is covered under the Provident Fund Scheme. The first respondent issued a notice requiring the petitioner firm to produce the relevant records for the period from July 1997 to May 2003 and on the basis of the reports submitted by the Enforcement Officer, the first respondent issued proceedings under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952
(for short the Act), dated 07.01.2004 directing the petitioner-Rice Mill to pay a sum of Rs.2,08,998/- towards Employees Provident Fund contributions for the period from July 1997 to May 2003. Questioning the same on various grounds, the present writ petition is filed.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

Though several contentions are raised questioning the impugned order, learned Standing Counsel for respondents submits that against the impugned order an appeal lies under Section 7(I) of the Act and that without availing the said remedy the petitioner has approached this Court in a haste manner.

Since alternative efficacious remedy is provided under the Act, the petitioner is at liberty to file an appeal under Section 7(I) of the Act, within a period of four weeks from today. Pending appeal, there shall be stay of all further proceedings pursuant to

order dated 07.01.2004, on condition of petitioner depositing 50% of the amount demanded vide proceedings dated 07.01.2004, within six weeks from today. Subject to above observations, the Writ Petition is disposed of at the stage of admission. No costs.

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(N.V. RAMANA, J)

Date: 29.11.2004

Nsr/Tvk

To

1 Employees Provident Fund Organisation, Sub Regional Office

Opp.Kambal Tank Rajahmundry,
East Godavari District rep. by its Regional Provident Fund

Commissioner-II.
2 The Recovery Officer, Employees Provident Fund Organisation
Sub Regional Office Opp.Kambal Tank Rajahmundry E.G.District.

3 Two CD copies.

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Date: 29-11-2004